

REMARKS/ARGUMENTS

Claims 1-42 are pending the application. Claims 1, 7-8, 13, 19-20, 25, 31, and 37-38 have been amended. Claims 2, 14, 26, and 32 have been cancelled. It is believed that this Amendment, in conjunction with the following remarks, place the application in immediate condition for allowance or at least presents the claims in better form for consideration on Appeal. Accordingly, entry of this Amendment and favorable consideration of the application are respectfully requested in view of the foregoing amendments and the following remarks. Claims 1, 3-13, 15-25, 27-31, and 33-42 are pending in the application.

35 U.S.C. 103 Rejections

Claims 1, 3-8, 10-13, 15, 17-20, 22-25, 27, 29, 30-31, 33, 35-38, and 40-42 were rejected under 35 U.S.C. § 103 (a) as allegedly being unpatentable over Gopalakrishnan et al., U.S. Patent Application Publication No. 2002/0183064 A1, (hereinafter “ ‘064 ”)) in view of Narasimhan, U.S. Patent No. 7,505,788 B1 (hereinafter “ ‘788 ”), and further in view of Ling et al., US Patent 5,737,327, (hereinafter “ ‘327 ”). Claims 2, 9, 14, 21, 26, 32, and 39 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over ‘064 in view of ‘788 and ‘327 and further in view of Gopalakrishnan, U.S. Patent No. 7,009,949 B1, (hereinafter “ ‘949”). Claims 4,16, 28, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over ‘064 in view of ‘788 and ‘327, and further in view of Devon, U.S. Patent No. 5,692,127. Applicants have amended the claims in order to overcome the rejections.

Claim 1 has been amended to recite the recitations of Claim 2.

In the Office Action page 9, dated December 24, 2009, regarding Claim 2 it is stated that the references ‘064, ‘788, and ‘327 fail to teach a specific transceiver in a group having a minimum data throughput rate. The Examiner puts forth ‘949 as allegedly curing the deficiencies. However, Claim 2 recites “...transmitting the multiplexed data packets comprises identifying a specific transceiver in the group having a minimum data throughput rate among the data throughput rates of the transceivers in the group, and applying the respective long code to transmit at least one multiplexed data packet to the specific transceiver” (Claim 2). Thus, the Examiner has not taken into consideration all of the elements of Claim 2. The current application is concerned with, in at least one of, a fair distribution of the throughput rates (for example, current application [0104]).

In contrast, '949 is concerned with maximizing throughput. '949 describes "to improve system throughput, the system allows the wireless unit with the best channel, and thereby the highest rate, to transmit ahead of the wireless units with comparatively low channel quality" '949 (Col 1 line 66 – Col 2 line 2). Thus, '949 is not "identifying a specific transceiver in the group having a minimum data throughput rate among the data throughput rates of the transceivers in the group, and applying the respective long code to transmit at least one multiplexed data packet to the specific transceiver" as amended claim 1 now recites. '949 is doing the opposite by selecting the "wireless unit with the best channel, and thereby the highest rate" to transmit "ahead" of the others.

Therefore, neither '064, '788, '327, nor '949 independently or combined teach or disclose all of the limitations of the claims as amended.

Accordingly, claim 1 is patentable. Since independent claims 13, 25, and 31 contain similar limitations as claim 1, claims 13, 25, and 31 are patentable for at least the same reasons set forth herein above with regard to claim 1.

Claim 7 has been amended to recite the recitations of claim 8.

In the Office action page 8, dated December 24, 2009, regarding Claim 8, it is stated that '064 describes claim 8 which recites "wherein allocating the plurality of different Walsh codes comprises measuring a voice-channel power used by a central transmitter for transmitting voice channels to the transceivers, and allocating and de-allocating at least one of the different Walsh codes in response to at least one of an excess power available to the central transmitter above the voice-channel power, an additional Walsh code available to the transmitter, and cell site modem resources available to the transmitter" (Claim 8).

However, '064 does not describe this. '064 describes an "uplink power budget" '064 [0019]. '064 describes that the system uses "power control for each of the users to limit the received signal power" and "the data user is instructed to transmit data over the uplink at a standard rate that will be received at the base station with the power level of S_{data} or less" '064 [0020 and 0021]. Thus, '064 does not describe "allocating and de-allocating at least one of the different Walsh codes in response to at least one of an excess power available to the central transmitter above the voice-channel power" as amended claim 7 now recites. '064 describes changing the power of the individual users to keep within a link power budget.

Therefore, neither '064, '788, nor '327 independently or combined teach or disclose all of the limitations of the claims as amended.

Accordingly, claim 7 is patentable. Since independent claims 7, 19, and 37 contain similar limitations as claim 7, claims 7, 19, and 37 are patentable for at least the same reasons set forth herein above with regard to claim 7.

Claims 3-6, 8-12, 15-18, 20-24, 27-30, 33-36, and 38-42 depend from patentable independent claims, and for at least the same reasons as stated for the independent claims, claims 3-6, 8-12, 15-18, 20-24, 27-30, 33-36, and 38-42 are patentable based on their dependency to patentable claims and other novel features contained therein. Therefore, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §103.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, at the telephone number listed below.

Deposit Account Authorization

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: 3/9/10

By: 

Mary Fales
Reg. No. 63,491

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 651-8150
Facsimile: (858) 658-2502